

# Notice of Allowability

Application No.

10/719,996

Examiner

Brent Page

Applicant(s)

HANNOUFA ET AL.

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 06/22/2007.
2. ☒ The allowed claim(s) is/are 19-23.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

IN THE CLAIMS:

Claims 1-18 and 25-36 were cancelled without prejudice.

Claims 19 and 21-23 were amended as follows:

Claim 19 (Currently Amended) A method for selectively controlling the transcription of a gene of interest in a plant, comprising:

- i) producing a first plant comprising a first genetic construct, said first genetic construct comprising a first regulatory region operatively linked to a gene of interest and one, or more than one, ROS operator sequence capable of controlling the activity of said first regulatory region, the ROS operator sequence comprising a sequence selected from the group consisting of SEQ ID NO: 20, an inverted repeat of SEQ ID NO: 20, and a combination thereof;
- ii) producing a second plant comprising a second genetic construct, said second genetic construct comprising a second regulatory region in operative association with a nucleic acid molecule, encoding a ROS repressor selected from the group consisting of Agrobacterium ROS and Rhizobium ROS optimized for expression

in a plant, said ROS repressor exhibiting both ROS operator binding activity and ROS repressor activity and;

iii) crossing said first plant and said second plant to obtain progeny, said progeny comprising both said first genetic construct and said second genetic construct, and characterized in that the expression of said second genetic construct represses expression of said first genetic construct.

Claim 21 (Currently Amended) A method for selectively controlling the transcription of a gene of interest in a plant, comprising:

i) introducing into said plant:

a) a first genetic construct comprising a nucleic acid molecule comprising a first regulatory region operatively linked to a gene of interest, and one, or more than one, ROS operator sequence capable of controlling the activity of said first regulatory region, the ROS operator sequence comprising a sequence selected from the group consisting of SEQ ID NO: 20, an inverted repeat of SEQ ID NO: 20, and a combination thereof; and

b) a second genetic construct comprising a second regulatory region in operative association with a nucleotide sequence encoding a ROS repressor selected from the group consisting of Agrobacterium ROS and Rhizobium ROS optimized for expression in a plant, said ROS repressor exhibiting both ROS operator binding activity and ROS repressor activity; said second regulatory region comprises an inducible promoter;

ii) growing said plant, and

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- iii) inducing the activity of said inducible promoter so that expression of said second genetic construct produces said ROS repressor and represses expression of said gene of interest.

22. (Currently Amended) A method for selectively controlling the transcription of a gene of interest in a plant, comprising:

- i) introducing into said plant:

- a) a first genetic construct comprising a nucleic acid molecule comprising a first regulatory region operatively linked to a gene of interest, and one, or more than one, ROS operator sequence capable of controlling the activity of said first regulatory region, the ROS operator sequence comprising a sequence selected from the group consisting of SEQ ID NO: 20, an inverted repeat of SEQ ID NO: 20, and a combination thereof; and
- b) a second genetic construct comprising a second regulatory region in operative association with a nucleotide sequence encoding a ROS repressor[,] selected from the group consisting of Agrobacterium ROS and Rhizobium ROS optimized for expression in a plant said ROS repressor exhibiting both ROS operator binding activity and ROS repressor activity; said second regulatory region comprises a tissue specific promoter; and

- ii) growing said plant, so that expression of said second genetic construct produces said ROS repressor and represses expression of said gene of interest in a tissue specific manner.

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23. (Currently Amended) A method for selectively controlling the transcription of a gene of interest in a plant, comprising:

i) introducing into said plant:

a) a first genetic construct comprising a nucleic acid molecule comprising a first regulatory region operatively linked to a gene of interest, and one, or more than one, ROS operator sequence capable of controlling the activity of said first regulatory region, the ROS operator sequence comprising a sequence selected from the group consisting of SEQ ID NO: 20, an inverted repeat of SEQ ID NO: 20, and a combination thereof; and

b) a second genetic construct comprising a second regulatory region in operative association with a nucleotide sequence encoding a ROS repressor[,]  
selected from the group consisting of Agrobacterium ROS and Rhizobium ROS optimized for expression in a plant said ROS repressor exhibiting both ROS operator binding activity and ROS repressor activity; said second regulatory region comprises a promoter that is active at one or more specific developmental stages within said plant; and

ii) growing said plant, so that the activity of said promoter at one or more specific developmental stages within said plant results in expression of said second genetic construct thereby producing said ROS repressor, and represses expression of said gene of interest.

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Authorization for this examiner's amendment was given in a telephone interview with Kathy Dias on 08/30/2007.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent Page whose telephone number is (571)-272-5914. The examiner can normally be reached on Monday-Friday 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571)-272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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RUSSELL P. KALLIS, PH.D.  
PRIMARY EXAMINER

